

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JEFFERY MARTIN SIERZEGA,

Plaintiff,

v.

Civil No. 05-1338-HU
ORDER

PRO TEM JUDGE LYNN E. ASHCROFT,
JUDGE JOSEPH C. GUIMOND,
JUDGE ALBIN W. NORBLAD, et al.,

Defendants.

HAGGERTY, Chief Judge:

On April 12, 2006, Magistrate Judge Hubel issued a Findings and Recommendation [45] recommending that the State Defendants' Motion to Dismiss [30] should be granted in part and denied in part and that Phillips's Motion to Dismiss [32] should be denied. Objections to the Findings and Recommendation were filed by plaintiff [49]. Judge Michael W. Mosman subsequently granted plaintiff's Motion to Change or Transfer Venue [55] and recused himself from this action. The disputed Findings & Recommendation was referred to this court for review.

When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Plaintiff filed objections in a timely manner. The court has given the file of this case a *de novo* review, and has also carefully evaluated the Magistrate's Findings and Recommendations, the objections, and the Record of the case. The objections are denied, and the Findings and Recommendation is adopted.

ANALYSIS

The Magistrate Judge reviewed this case thoroughly in the Findings and Recommendation and the relevant facts and legal reasoning need be recited only briefly.

Plaintiff Jeffery Sierzega brings this civil rights action against several Marion County Circuit Court judges, a court reporter, several Marion County deputy sheriffs, several City of Salem police officers, Marion County, and the City of Salem. Plaintiff also brings claims against a dentist, Dr. Jeffrey Phillips, DMD. Before the Magistrate Judge were motions to dismiss from Phillips, the Marion County judges, and the court reporter. The Findings and Recommendation concluded that Phillips's motion should be denied, but that the separate motion by the judicial officers and the court reporter should be granted in part.

Plaintiff objects that the Findings and Recommendation failed to address plaintiff's allegations of fraud, and that policies of judicial immunity should not shield the defendant Judges from this suit. Plaintiff also contends that Magistrate Judge Hubel intentionally misstated plaintiff's allegations and scheduled the filing of any objections on a date when the Magistrate

Judge knew plaintiff would be preoccupied with the arrest of plaintiff's only child. Pl.s

Objections at 3.

Plaintiff's objections are overruled. Magistrate Judge Hubel granted plaintiff's request for an extension to file objections, and this court has considered the objections and the entire record. The Findings and Recommendation's analysis of judicial immunity and its applicability in the matters presented in this case is sound and correct. To the extent that the "Response to Objections to the Magistrate Judge's Order" [51] filed by defendants Albin W. Norblad, Trisha Rohlfing, Paul J. Lipscomb, Joseph C. Guimond, and Lynn E. Ashcroft was intended to also advance an objection regarding the Findings and Recommendation's conclusion that defendant Rohlfing should not be dismissed, such an objection is also overruled.

CONCLUSION

For the reasons provided above, plaintiff's objections [49] and any objections intended in defendants' responsive briefing [51] are OVERRULED. Defendant Phillips' Motion to Dismiss [32] is denied. The state defendants' Motion to Dismiss [30] is granted in part and denied in part in accordance with the terms of the Findings and Recommendation [45], which is adopted in its entirety.

IT IS SO ORDERED.

Dated this 21st day of July, 2006.

/s/ Ancer L. Haggerty
Ancer L. Haggerty
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